

Senator Daniel McCay proposes the following substitute bill:

TAX AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: _____

Cosponsors:	Wayne A. Harper	Scott D. Sandall
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LONG TITLE

General Description:

This bill modifies tax provisions.

Highlighted Provisions:

This bill:

- ▶ exempts supplies used in the course of business from personal property tax;
- ▶ amends the corporate franchise and income tax rates;
- ▶ amends the individual income tax rate;
- ▶ exempts certain tangible personal property consumed in the performance of a taxable service from sales and use tax; and



25 ▶ exempts certain tangible personal property used or consumed in the production or
26 development of taxable computer software from sales and use tax.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

31 This bill provides retrospective operation.

32 **Utah Code Sections Affected:**

33 **AMENDS:**

34 **59-2-1115**, as last amended by Laws of Utah 2021, Chapter 388

35 **59-7-104**, as last amended by Laws of Utah 2020, Chapter 354

36 **59-7-201**, as last amended by Laws of Utah 2018, Chapter 456

37 **59-10-104**, as last amended by Laws of Utah 2018, Chapter 456

38 **59-12-104**, as last amended by Laws of Utah 2021, Chapters 280 and 367

40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **59-2-1115** is amended to read:

42 **59-2-1115. Exemption of certain tangible personal property.**

43 (1) As used in this section:

44 (a) (i) "Item of taxable tangible personal property" does not include an improvement to
45 real property or a part that will become an improvement.

46 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
47 commission may make rules defining the term "item of taxable tangible personal property."

48 **(b) (i) "Supply" means taxable tangible personal property that is:**

49 **(A) not held for sale in the ordinary course of business;**

50 **(B) either carried on hand and for which no record of consumption is taken in ordinary**
51 **business or typically used up within the calendar year; and**

52 **(C) used in the provision of the taxpayer's business activity.**

53 **(ii) "Supply" includes an office supply, a shipping supply, a maintenance supply, a**
54 **replacement part, a lubricating oil, a fuel, or an item consumed in the course of operating the**
55 **business.**

56 (iii) "Supply" does not include furniture, a fixture, machinery, equipment, a computer,
57 a cellular telephone, or a vehicle.

58 ~~[(b)]~~ (c) (i) "Taxable tangible personal property" means tangible personal property that
59 is subject to taxation under this chapter.

60 (ii) "Taxable tangible personal property" does not include:

61 (A) tangible personal property required by law to be registered with the state before it
62 is used on a public highway, public waterway, or public land or in the air;

63 (B) a mobile home as defined in Section 41-1a-102; or

64 (C) a manufactured home as defined in Section 41-1a-102.

65 (2) (a) In accordance with Utah Constitution, Article XIII, Section 3, Subsection
66 (2)(a)(vi), which provides that the Legislature may by statute exempt tangible personal property
67 that, if subject to property tax, would generate an inconsequential amount of revenue, the
68 Legislature exempts the tangible personal property described in this Subsection (2).

69 (b) The taxable tangible personal property of a taxpayer is exempt from taxation if the
70 taxable tangible personal property has a total aggregate taxable value per county of \$25,000 or
71 less.

72 (c) For an item of taxable tangible personal property that is not exempt under
73 Subsection (2)(b), the item is exempt from taxation if:

74 (i) the item is owned by a business and is not critical to the actual business operation of
75 the business; and

76 (ii) the acquisition cost of the item is less than \$500.

77 (d) A supply, including the cost of freight-in, is exempt from taxation.

78 (3) (a) For a calendar year beginning on or after January 1, 2023, the commission shall
79 increase the dollar amount described in Subsection (2)(b):

80 (i) by a percentage equal to the percentage difference between the consumer price
81 index for the preceding calendar year and the consumer price index for calendar year 2021; and

82 (ii) up to the nearest \$100 increment.

83 (b) For purposes of this Subsection (3), the commission shall calculate the consumer
84 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

85 (c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative
86 percentage, the consumer price index increase for the year is zero.

(4) (a) For the first calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(b), a county assessor may require the taxpayer to file a signed statement described in Section 59-2-306.

(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(b) after the calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection (2)(b) may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption under Subsection (2)(b).

(c) If a taxpayer qualifies for an exemption described in Subsection (2)(b) for five consecutive years and files a signed statement for each of those years in accordance with Section 59-2-306 and Subsection (4)(b), a county assessor may not require the taxpayer to file a signed statement for each continuing consecutive year for which the taxpayer qualifies for the exemption.

(d) If a taxpayer qualifies for an exemption described in Subsection (2)(c) for an item of tangible taxable personal property or in Subsection (2)(d) for a supply, a county assessor may not require the taxpayer to include the item on a signed statement described in Section 59-2-306.

(5) A signed statement with respect to qualifying exempt primary residential rental personal property is as provided in Section 59-2-103.5.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section and provide for uniform implementation.

Section 2. Section 59-7-104 is amended to read:

59-7-104. Tax -- Minimum tax.

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise or for the privilege of doing business in the state.

(2) The tax shall be [~~4.95%~~] 4.85% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is \$100.

Section 3. Section **59-7-201** is amended to read:

59-7-201. Tax -- Minimum tax.

(1) There is imposed upon each corporation, except a corporation that is exempt under Section **59-7-102**, a tax upon the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section **59-7-104**.

(2) The tax imposed by Subsection (1) shall be [~~4.95%~~] 4.85% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than \$100.

Section 4. Section **59-10-104** is amended to read:

59-10-104. Tax basis -- Tax rate -- Exemption.

(1) A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) [~~4.95%~~] 4.85%.

(3) This section does not apply to a resident individual exempt from taxation under Section **59-10-104.1**.

Section 5. Section **59-12-104** is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section **59-12-104.6**, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of

tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

211 (C) a stoma supply; and
212 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
213 commission may by rule define the terms:
214 (A) "syringe"; or
215 (B) "stoma supply";
216 (11) purchases or leases exempt under Section 19-12-201;
217 (12) (a) sales of an item described in Subsection (12)(c) served by:
218 (i) the following if the item described in Subsection (12)(c) is not available to the
219 general public:
220 (A) a church; or
221 (B) a charitable institution; or
222 (ii) an institution of higher education if:
223 (A) the item described in Subsection (12)(c) is not available to the general public; or
224 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
225 offered by the institution of higher education; or
226 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
227 (i) a medical facility; or
228 (ii) a nursing facility; and
229 (c) Subsections (12)(a) and (b) apply to:
230 (i) food and food ingredients;
231 (ii) prepared food; or
232 (iii) alcoholic beverages;
233 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
234 or a product transferred electronically by a person:
235 (i) regardless of the number of transactions involving the sale of that tangible personal
236 property or product transferred electronically by that person; and
237 (ii) not regularly engaged in the business of selling that type of tangible personal
238 property or product transferred electronically;
239 (b) this Subsection (13) does not apply if:
240 (i) the sale is one of a series of sales of a character to indicate that the person is
241 regularly engaged in the business of selling that type of tangible personal property or product

transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

304 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
305 (i) tooling;
306 (ii) special tooling;
307 (iii) support equipment;
308 (iv) special test equipment; or
309 (v) parts used in the repairs or renovations of tooling or equipment described in
310 Subsections (15)(a)(i) through (iv); and
311 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
312 (i) the tooling, equipment, or parts are used or consumed exclusively in the
313 performance of any aerospace or electronics industry contract with the United States
314 government or any subcontract under that contract; and
315 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
316 title to the tooling, equipment, or parts is vested in the United States government as evidenced
317 by:
318 (A) a government identification tag placed on the tooling, equipment, or parts; or
319 (B) listing on a government-approved property record if placing a government
320 identification tag on the tooling, equipment, or parts is impractical;
321 (16) sales of newspapers or newspaper subscriptions;
322 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
323 product transferred electronically traded in as full or part payment of the purchase price, except
324 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
325 trade-ins are limited to other vehicles only, and the tax is based upon:
326 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
327 vehicle being traded in; or
328 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
329 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
330 commission; and
331 (b) Subsection (17)(a) does not apply to the following items of tangible personal
332 property or products transferred electronically traded in as full or part payment of the purchase
333 price:
334 (i) money;

335 (ii) electricity;
336 (iii) water;
337 (iv) gas; or
338 (v) steam;

339 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
340 or a product transferred electronically used or consumed primarily and directly in farming
341 operations, regardless of whether the tangible personal property or product transferred
342 electronically:

343 (A) becomes part of real estate; or
344 (B) is installed by a farmer, contractor, or subcontractor; or

345 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
346 product transferred electronically if the tangible personal property or product transferred
347 electronically is exempt under Subsection (18)(a)(i); and

348 (b) amounts paid or charged for the following are subject to the taxes imposed by this
349 chapter:

350 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
351 supplies if used in a manner that is incidental to farming; and

352 (B) tangible personal property that is considered to be used in a manner that is
353 incidental to farming includes:

354 (I) hand tools; or
355 (II) maintenance and janitorial equipment and supplies;

356 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
357 transferred electronically if the tangible personal property or product transferred electronically
358 is used in an activity other than farming; and

359 (B) tangible personal property or a product transferred electronically that is considered
360 to be used in an activity other than farming includes:

361 (I) office equipment and supplies; or
362 (II) equipment and supplies used in:

363 (Aa) the sale or distribution of farm products;
364 (Bb) research; or
365 (Cc) transportation; or

366 (iii) a vehicle required to be registered by the laws of this state during the period
367 ending two years after the date of the vehicle's purchase;

368 (19) sales of hay;

369 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
370 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
371 garden, farm, or other agricultural produce is sold by:

372 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
373 agricultural produce;

374 (b) an employee of the producer described in Subsection (20)(a); or

375 (c) a member of the immediate family of the producer described in Subsection (20)(a);

376 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
377 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

378 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
379 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
380 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
381 manufacturer, processor, wholesaler, or retailer;

382 (23) a product stored in the state for resale;

383 (24) (a) purchases of a product if:

384 (i) the product is:

385 (A) purchased outside of this state;

386 (B) brought into this state:

387 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

388 (II) by a nonresident person who is not living or working in this state at the time of the
389 purchase;

390 (C) used for the personal use or enjoyment of the nonresident person described in
391 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

392 (D) not used in conducting business in this state; and

393 (ii) for:

394 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
395 the product for a purpose for which the product is designed occurs outside of this state;

396 (B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

428 (a) not registered in this state; and
429 (b) (i) not used in this state; or
430 (ii) used in this state:
431 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
432 time period that does not exceed the longer of:
433 (I) 30 days in any calendar year; or
434 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
435 the borders of this state; or
436 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
437 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
438 state;
439 (31) sales of aircraft manufactured in Utah;
440 (32) amounts paid for the purchase of telecommunications service for purposes of
441 providing telecommunications service;
442 (33) sales, leases, or uses of the following:
443 (a) a vehicle by an authorized carrier; or
444 (b) tangible personal property that is installed on a vehicle:
445 (i) sold or leased to or used by an authorized carrier; and
446 (ii) before the vehicle is placed in service for the first time;
447 (34) (a) 45% of the sales price of any new manufactured home; and
448 (b) 100% of the sales price of any used manufactured home;
449 (35) sales relating to schools and fundraising sales;
450 (36) sales or rentals of durable medical equipment if:
451 (a) a person presents a prescription for the durable medical equipment; and
452 (b) the durable medical equipment is used for home use only;
453 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
454 Section 72-11-102; and
455 (b) the commission shall by rule determine the method for calculating sales exempt
456 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
457 (38) sales to a ski resort of:
458 (a) snowmaking equipment;

459 (b) ski slope grooming equipment;

460 (c) passenger ropeways as defined in Section 72-11-102; or

461 (d) parts used in the repairs or renovations of equipment or passenger ropeways

462 described in Subsections (38)(a) through (c);

463 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal,

464 fuel oil, or other fuels for industrial use;

465 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for

466 amusement, entertainment, or recreation an unassisted amusement device as defined in Section

467 59-12-102;

468 (b) if a seller that sells or rents at the same business location the right to use or operate

469 for amusement, entertainment, or recreation one or more unassisted amusement devices and

470 one or more assisted amusement devices, the exemption described in Subsection (40)(a)

471 applies if the seller separately accounts for the sales or rentals of the right to use or operate for

472 amusement, entertainment, or recreation for the assisted amusement devices; and

473 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,

474 Utah Administrative Rulemaking Act, the commission may make rules:

475 (i) governing the circumstances under which sales are at the same business location;

476 and

477 (ii) establishing the procedures and requirements for a seller to separately account for

478 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for

479 assisted amusement devices;

480 (41) (a) sales of photocopies by:

481 (i) a governmental entity; or

482 (ii) an entity within the state system of public education, including:

483 (A) a school; or

484 (B) the State Board of Education; or

485 (b) sales of publications by a governmental entity;

486 (42) amounts paid for admission to an athletic event at an institution of higher

487 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

488 20 U.S.C. Sec. 1681 et seq.;

489 (43) (a) sales made to or by:

490 (i) an area agency on aging; or
491 (ii) a senior citizen center owned by a county, city, or town; or
492 (b) sales made by a senior citizen center that contracts with an area agency on aging;
493 (44) sales or leases of semiconductor fabricating, processing, research, or development
494 materials regardless of whether the semiconductor fabricating, processing, research, or
495 development materials:
496 (a) actually come into contact with a semiconductor; or
497 (b) ultimately become incorporated into real property;
498 (45) an amount paid by or charged to a purchaser for accommodations and services
499 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
500 59-12-104.2;
501 (46) the lease or use of a vehicle issued a temporary sports event registration certificate
502 in accordance with Section 41-3-306 for the event period specified on the temporary sports
503 event registration certificate;
504 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
505 adopted by the Public Service Commission only for purchase of electricity produced from a
506 new alternative energy source built after January 1, 2016, as designated in the tariff by the
507 Public Service Commission; and
508 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
509 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
510 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
511 customer would have paid absent the tariff;
512 (48) sales or rentals of mobility enhancing equipment if a person presents a
513 prescription for the mobility enhancing equipment;
514 (49) sales of water in a:
515 (a) pipe;
516 (b) conduit;
517 (c) ditch; or
518 (d) reservoir;
519 (50) sales of currency or coins that constitute legal tender of a state, the United States,
520 or a foreign nation;

521 (51) (a) sales of an item described in Subsection (51)(b) if the item:
522 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
523 (ii) has a gold, silver, or platinum content of 50% or more; and
524 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
525 (i) ingot;
526 (ii) bar;
527 (iii) medallion; or
528 (iv) decorative coin;
529 (52) amounts paid on a sale-leaseback transaction;
530 (53) sales of a prosthetic device:
531 (a) for use on or in a human; and
532 (b) (i) for which a prescription is required; or
533 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
534 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
535 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
536 or equipment is primarily used in the production or postproduction of the following media for
537 commercial distribution:
538 (i) a motion picture;
539 (ii) a television program;
540 (iii) a movie made for television;
541 (iv) a music video;
542 (v) a commercial;
543 (vi) a documentary; or
544 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
545 commission by administrative rule made in accordance with Subsection (54)(d); or
546 (b) purchases, leases, or rentals of machinery or equipment by an establishment
547 described in Subsection (54)(c) that is used for the production or postproduction of the
548 following are subject to the taxes imposed by this chapter:
549 (i) a live musical performance;
550 (ii) a live news program; or
551 (iii) a live sporting event;

552 (c) the following establishments listed in the 1997 North American Industry
553 Classification System of the federal Executive Office of the President, Office of Management
554 and Budget, apply to Subsections (54)(a) and (b):

- 555 (i) NAICS Code 512110; or
- 556 (ii) NAICS Code 51219; and

557 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
558 commission may by rule:

- 559 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

560 or

- 561 (ii) define:
 - 562 (A) "commercial distribution";
 - 563 (B) "live musical performance";
 - 564 (C) "live news program"; or
 - 565 (D) "live sporting event";

566 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
567 on or before June 30, 2027, of tangible personal property that:

- 568 (i) is leased or purchased for or by a facility that:
 - 569 (A) is an alternative energy electricity production facility;
 - 570 (B) is located in the state; and
 - 571 (C) (I) becomes operational on or after July 1, 2004; or
 - 572 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 573 2004, as a result of the use of the tangible personal property;
- 574 (ii) has an economic life of five or more years; and
- 575 (iii) is used to make the facility or the increase in capacity of the facility described in
576 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
577 transmission grid including:
 - 578 (A) a wind turbine;
 - 579 (B) generating equipment;
 - 580 (C) a control and monitoring system;
 - 581 (D) a power line;
 - 582 (E) substation equipment;

583 (F) lighting;
584 (G) fencing;
585 (H) pipes; or
586 (I) other equipment used for locating a power line or pole; and
587 (b) this Subsection (55) does not apply to:
588 (i) tangible personal property used in construction of:
589 (A) a new alternative energy electricity production facility; or
590 (B) the increase in the capacity of an alternative energy electricity production facility;
591 (ii) contracted services required for construction and routine maintenance activities;
592 and
593 (iii) unless the tangible personal property is used or acquired for an increase in capacity
594 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
595 acquired after:
596 (A) the alternative energy electricity production facility described in Subsection
597 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
598 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
599 in Subsection (55)(a)(iii);
600 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
601 on or before June 30, 2027, of tangible personal property that:
602 (i) is leased or purchased for or by a facility that:
603 (A) is a waste energy production facility;
604 (B) is located in the state; and
605 (C) (I) becomes operational on or after July 1, 2004; or
606 (II) has its generation capacity increased by one or more megawatts on or after July 1,
607 2004, as a result of the use of the tangible personal property;
608 (ii) has an economic life of five or more years; and
609 (iii) is used to make the facility or the increase in capacity of the facility described in
610 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
611 transmission grid including:
612 (A) generating equipment;
613 (B) a control and monitoring system;

- 614 (C) a power line;
615 (D) substation equipment;
616 (E) lighting;
617 (F) fencing;
618 (G) pipes; or
619 (H) other equipment used for locating a power line or pole; and
620 (b) this Subsection (56) does not apply to:
621 (i) tangible personal property used in construction of:
622 (A) a new waste energy facility; or
623 (B) the increase in the capacity of a waste energy facility;
624 (ii) contracted services required for construction and routine maintenance activities;
625 and
626 (iii) unless the tangible personal property is used or acquired for an increase in capacity
627 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
628 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
629 described in Subsection (56)(a)(iii); or
630 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
631 in Subsection (56)(a)(iii);
632 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
633 or before June 30, 2027, of tangible personal property that:
634 (i) is leased or purchased for or by a facility that:
635 (A) is located in the state;
636 (B) produces fuel from alternative energy, including:
637 (I) methanol; or
638 (II) ethanol; and
639 (C) (I) becomes operational on or after July 1, 2004; or
640 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
641 a result of the installation of the tangible personal property;
642 (ii) has an economic life of five or more years; and
643 (iii) is installed on the facility described in Subsection (57)(a)(i);
644 (b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:
 (A) a new facility described in Subsection (57)(a)(i); or
 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
 (ii) contracted services required for construction and routine maintenance activities;
 and
 (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
 (A) the facility described in Subsection (57)(a)(i) is operational; or
 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
 (58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and
 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;
 (59) purchases:
 (a) of one or more of the following items in printed or electronic format:
 (i) a list containing information that includes one or more:
 (A) names; or
 (B) addresses; or
 (ii) a database containing information that includes one or more:
 (A) names; or
 (B) addresses; and
 (b) used to send direct mail;
 (60) redemptions or repurchases of a product by a person if that product was:
 (a) delivered to a pawnbroker as part of a pawn transaction; and
 (b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;
 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

676 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
677 and
678 (ii) has a useful economic life of one or more years; and
679 (b) the following apply to Subsection (61)(a):
680 (i) telecommunications enabling or facilitating equipment, machinery, or software;
681 (ii) telecommunications equipment, machinery, or software required for 911 service;
682 (iii) telecommunications maintenance or repair equipment, machinery, or software;
683 (iv) telecommunications switching or routing equipment, machinery, or software; or
684 (v) telecommunications transmission equipment, machinery, or software;
685 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
686 personal property or a product transferred electronically that are used in the research and
687 development of alternative energy technology; and
688 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
689 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
690 purchases of tangible personal property or a product transferred electronically that are used in
691 the research and development of alternative energy technology;
692 (63) (a) purchases of tangible personal property or a product transferred electronically
693 if:
694 (i) the tangible personal property or product transferred electronically is:
695 (A) purchased outside of this state;
696 (B) brought into this state at any time after the purchase described in Subsection
697 (63)(a)(i)(A); and
698 (C) used in conducting business in this state; and
699 (ii) for:
700 (A) tangible personal property or a product transferred electronically other than the
701 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
702 for a purpose for which the property is designed occurs outside of this state; or
703 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
704 outside of this state and not required to be registered in this state under Section 41-1a-202 or
705 73-18-9 based on residency;
706 (b) the exemption provided for in Subsection (63)(a) does not apply to:

707 (i) a lease or rental of tangible personal property or a product transferred electronically;
708 or
709 (ii) a sale of a vehicle exempt under Subsection (33); and
710 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
711 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
712 following:
713 (i) conducting business in this state if that phrase has the same meaning in this
714 Subsection (63) as in Subsection (24);
715 (ii) the first use of tangible personal property or a product transferred electronically if
716 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
717 (iii) a purpose for which tangible personal property or a product transferred
718 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
719 Subsection (24);
720 (64) sales of disposable home medical equipment or supplies if:
721 (a) a person presents a prescription for the disposable home medical equipment or
722 supplies;
723 (b) the disposable home medical equipment or supplies are used exclusively by the
724 person to whom the prescription described in Subsection (64)(a) is issued; and
725 (c) the disposable home medical equipment and supplies are listed as eligible for
726 payment under:
727 (i) Title XVIII, federal Social Security Act; or
728 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
729 (65) sales:
730 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
731 District Act; or
732 (b) of tangible personal property to a subcontractor of a public transit district, if the
733 tangible personal property is:
734 (i) clearly identified; and
735 (ii) installed or converted to real property owned by the public transit district;
736 (66) sales of construction materials:
737 (a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul

provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

800 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
801 tangible personal property prior to making the sale; or
802 (b) for a lease:
803 (i) the ownership of the lessor and the ownership of the lessee are identical; and
804 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
805 personal property prior to making the lease;
806 (76) (a) purchases of machinery or equipment if:
807 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
808 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
809 System of the federal Executive Office of the President, Office of Management and Budget;
810 (ii) the machinery or equipment:
811 (A) has an economic life of three or more years; and
812 (B) is used by one or more persons who pay admission or user fees described in
813 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
814 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
815 (A) amounts paid or charged as admission or user fees described in Subsection
816 59-12-103(1)(f); and
817 (B) subject to taxation under this chapter; and
818 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
819 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
820 previous calendar quarter is:
821 (i) amounts paid or charged as admission or user fees described in Subsection
822 59-12-103(1)(f); and
823 (ii) subject to taxation under this chapter;
824 (77) purchases of a short-term lodging consumable by a business that provides
825 accommodations and services described in Subsection 59-12-103(1)(i);
826 (78) amounts paid or charged to access a database:
827 (a) if the primary purpose for accessing the database is to view or retrieve information
828 from the database; and
829 (b) not including amounts paid or charged for a:
830 (i) digital audio work;

- 831 (ii) digital audio-visual work; or
832 (iii) digital book;
833 (79) amounts paid or charged for a purchase or lease made by an electronic financial
834 payment service, of:
835 (a) machinery and equipment that:
836 (i) are used in the operation of the electronic financial payment service; and
837 (ii) have an economic life of three or more years; and
838 (b) normal operating repair or replacement parts that:
839 (i) are used in the operation of the electronic financial payment service; and
840 (ii) have an economic life of three or more years;
841 (80) sales of a fuel cell as defined in Section [54-15-102](#);
842 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
843 product transferred electronically if the tangible personal property or product transferred
844 electronically:
845 (a) is stored, used, or consumed in the state; and
846 (b) is temporarily brought into the state from another state:
847 (i) during a disaster period as defined in Section [53-2a-1202](#);
848 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
849 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
850 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);
851 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
852 in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
853 Recreation Program;
854 (83) amounts paid or charged for a purchase or lease of molten magnesium;
855 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
856 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
857 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
858 parts:
859 (a) are used in:
860 (i) the operation of the qualifying data center; or
861 (ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

893 (b) is located in this state; and
894 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
895 materials in the operation of the establishment; ~~and~~
896 (89) amounts paid or charged for an item exempt under Section [59-12-104.10](#)[-];
897 (90) amounts paid by the service provider for tangible personal property, other than
898 machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:
899 (a) is consumed in the performance of a service, to one or more customers, and is
900 subject to tax under Subsection [59-12-103](#)(1)(b), (f), (g), (h), (i), or (j);
901 (b) has to be consumed for the service provider to provide the service described in
902 Subsection (90)(a); and
903 (c) will be consumed in the performance of the service described in Subsection (90)(a)
904 to the point that the tangible personal property disappears or cannot be used for any other
905 purpose; and
906 (91) amounts paid or charged for tangible personal property that is used or consumed
907 primarily in the production or development of computer software that is subject to tax under
908 Section [59-12-103](#).

909 Section 6. **Effective date.**

- 910 (1) Except as provided in Subsections (2) and (3), this bill takes effect on May 4, 2022.
911 (2) The changes to Section [59-12-104](#) take effect on July 1, 2022.
912 (3) The changes to Section [59-2-1115](#) take effect on January 1, 2023.

913 Section 7. **Retrospective operation.**

914 The changes to the following sections have retrospective operation for a taxable year
915 beginning on or after January 1, 2022:

- 916 (1) Section [59-7-104](#);
917 (2) Section [59-7-201](#); and
918 (3) Section [59-10-104](#).